

CITY OF GAITHERSBURG
MINUTES OF A CITY COUNCIL MEETING
CITY HALL COUNCIL CHAMBERS
MONDAY, DECEMBER 3, 2012

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa and Spiegel. Council absent: Sesma. Staff present: Acting City Manager Tomasello, Public Works Director Arnoult, Economic Development Director Loneragan, Planning and Code Administration Director Schlichting, Planning Director Pruss, Finance and Administration Director Belton, Comptroller Smith, Olde Towne Coordinator Hines, City Attorney Board, and Municipal Clerk Stokes. Planning Commission present for joint public hearing: Hopkins, Kaufman, Lanier, and Winborne.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Richard Knoebel, Gaithersburg, Maryland.

II. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

III. APPROVAL OF MINUTES

Motion was made by Council Member Drzyzgula, seconded by, Council Member Marraffa, that the minutes of the Mayor and Council work session held November 13, 2012, be approved.

Vote: 3-0-1 (Abstain: Ashman)

Motion was made by Council Member Ashman, seconded by, Council Member Spiegel, that the minutes of the Mayor and Council special meeting held November 26, 2012, be approved.

Vote: 4-0

IV. ELECTION OF VICE PRESIDENT OF THE COUNCIL

Motion was made by Council Member Spiegel, seconded by Council Member Marraffa, for a continuance of this agenda item until December 17th.

Vote: 4-0

V. CONSENT ITEMS

A. Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract for Engineering Services for the Olde Towne Parking Garage

This resolution authorized the City Manager to enter into a contract for the service above with Mimar Architects, Inc., 7000 Security Boulevard, Suite 320, Baltimore, Maryland 21244, in an amount not to exceed Thirty-Four Thousand Sixty-Seven Dollars (\$34,067); said funds to be expended from the Capital Improvements Budget.

B. Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract for Surveying and Engineering Services for the Design of a Synthetic Turf Field at Lakelands Park

This resolution authorized the City Manager to enter into a contract for surveying and engineering services with URS Corporation, 4 North Park Drive, Suite 300, Hunt Valley, Maryland, 21030, in the amount of Forty-Six Thousand Dollars (\$46,000); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Marraffa, seconded by, Council Member Ashman, that the Consent Agenda (Resolution Nos. R- 84 -12 and R-85-12), be approved.

VI. APPOINTMENTS

A. Resolution of the City Council Confirming an Appointment and Reappointments

This resolution confirmed the following: Educational Enrichment Committee, Andrew Platt (appointment), 58 Beacon Hill Court, 20878, two-year term; Environmental Affairs Committee, Karen Rainbolt (reappointment), 93 Pointer Ridge Drive, 20878, two-year term; Commission on Landlord-Tenant Affairs, William Snyder (reappointment), 114 Fox Trail Terrace, 20878, Jennifer Spieler Weil (reappointment), 19 Earth Star Place, 20878, three-year terms; and the Police Advisory Committee, Andrew Bove (reappointment), 157 Bralan Lane, 20877, two-year term.

Motion was made by Council Member Ashman, seconded by, Council Member Spiegel, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING AN APPOINTMENT BY THE MAYOR TO THE EDUCATIONAL ENRICHMENT COMMITTEE AND REAPPOINTMENTS TO THE ENVIRONMENTAL AFFAIRS COMMITTEE, COMMISSION ON LANDLORD/TENANT AFFAIRS COMMITTEE, COMMISSION ON LANDLORD/TENANT AFFAIRS AND POLICE ADVISORY COMMITTEE (Resolution No. R- 86-12), be approved.

Vote: 4-0

B. Resolution Confirming the Appointment of Tony Tomasello as City Manager

This resolution confirmed the appointment of Tony Tomasello to the position of City Manager for the City of Gaithersburg, Maryland, effective November 29, 2012. Mr. Tomasello has been appointed to perform the duties of the City Manager pursuant to Section 18 of the City Charter and designated in accordance with Section 46 of the City Charter to countersign all checks issued in payment of City obligations while performing the duties of City Manager.

Motion was made by Council Member Drzyzgula, seconded by, Council Member Spiegel, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENT OF TONY TOMASELLO AS CITY MANAGER FOR THE CITY OF GAITHERSBURG, MARYLAND, EFFECTIVE NOVEMBER 29, 2012 (Resolution No. R- 87-12), be approved.

Vote: 4-0

VII. OATH OF OFFICE

Mayor Katz administered the Oath of Office to Tony Tomasello to executive the Office of City Manager. Mr. Tomasello expressed thanks to the Mayor and City Council, colleagues, City staff and outside community partners throughout the City.

VIII. PRESENTATIONS

A. The City of Gaithersburg's Auditors, McGladrey LLP Post-Audit for 2012 Required Communications

The City of Gaithersburg's Director of Finance and Administration, Harold W. Belton introduced the City's external auditor Todd Albaugh, Director at McGladry LLP, to the Mayor and City Council to make the 2012 post-audit required communication as required by auditing standards.

Mr. Albaugh noted the City's certificate of excellence for the 34th consecutive year and an unqualified report from the auditors which is the highest level of opinion from the auditors. Referred to the schedule of findings, questions and costs which summarized the above mentioned unqualified report confirming no significant deficiencies or material weaknesses identified during the audit. He informed the Mayor and City Council that new GASB Government Accounting Standards will be implemented next year.

Mr. Belton, Comptroller Smith, and finance staff were commended for their efforts and preparation of the City's

B. Presentation from Municap Regarding a Possible Tax Increment Finance District for Funding the Future Watkins Mill Interchange

Planning Director Pruss presented stating that the Watkins Mill Interchange project is the City's #1 economic development and transportation priority which remains unfunded today. Staff was directed to investigate alternative mechanisms for financing the project and began working with Municap who are regarded as a leader in Tax Increment Financing (TIF) and special tax assessment financing and consulting. She noted that Chris Gillis was in attendance, representing County Council Member George Leventhal. Representatives from Municap, Keenan Rice and Emily Metzler, provided background information regarding the potential formation of a Tax Increment Finance District as a method to fund infrastructure improvements for the future Watkins Mill Interchange.

Mr. Rice stated that a preliminary evaluation using TIF and Special Taxing District to fund the Watkins Mill Interchange was investigated. TIF is a self financing tool available to local governments to redevelop urban areas, encourage economic development, building public infrastructure and change the character of existing land use in strategic locations. Local governments commit a portion of the incremental revenues to build public infrastructure. He reviewed a map of the proposed TIF District, projected TIF revenues, projected debt service coverage, revenues securing bonds, key assumptions, factors affecting timing of issuance of bonds, growth in real property taxes, and TIF concerns. He pointed out that in regards to the Watkins Mill Interchange, there are properties around the interchange that still have not been developed and could be constrained by poor road and traffic conditions to make such development and redevelopment occur. The estimated cost for the interchange is over \$116M and the amount of funding from the state is uncertain. He noted that the County needs to partner and be a part of the process. The bond would be paid by two streams of revenue securing the bonds: tax increment revenues which do not require property owner consent and special tax revenues which require property owner consent. Bonds are not backed or secured by the general fund of any government body; city or county. Issuing bonds and starting construction is now projected at 2019. Ongoing development prior to the interchange being built would provide taxing increments necessary to support the bonds and the proposed special tax collected following the built interchange would also support the repayment of the bond. The first year to make a payment on the bonds would be 2023. It is proposed that the Maryland Economic Development Corporation (MEDCO), an arm of the State, borrow the money and be the issuer of the bonds. The State would authorize MEDCO to act in such capacity. Mr. Rice reviewed the 14 year process of the White Flint Special Tax District program as a comparison and responded to several questions. In response to concerns expressed, he reiterated that the TIF bonds will not be issued until there are sufficient revenues to provide a minimum of 125% debt service coverage. As a result, the TIF does not rely on development subsequent to issuance of bonds. Additionally, he stated that the City's general fund would not be at risk for the bonds. In closing, funding options for the Watkins Mill Interchange could be done through the TIF, Special Taxing District and other programs. A TIF is often a funding mechanism of last resort when no other programs are available. If there are no other feasible programs, not using a TIF and Special Taxing District means an indefinite delay in building the interchange. Approvals and planning by key parties are necessary to move through the process.

IX. PUBLIC COMMENTS

No speakers from the public.

X. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Drzyzgula

1. Reported that the Mayor and City Council conducted a closed session at City Hall on November 19th at approximately 9 p.m., pursuant to a motion adopted unanimously. The session was closed pursuant to the State Government Article of the Annotated Code of Maryland, Section 10-508(a)(1)(i) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The topic discussed was the City Manager hiring process. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma, and Spiegel, City Attorney Board and Director of Human Resources Daily. Upon conclusion of the discussion, the closed meeting was adjourned at approximately 9:18 p.m.

2. Expressed best wishes for the upcoming holidays.
3. Congratulated Tony Tomasello on his selection as the new City Manager of Gaithersburg. Mentioned his long history with Gaithersburg and the thorough hiring process conducted.
4. Attended the Kentlands Tree Lighting Ceremony.
5. Reported that several colleagues were contacted by parties regarding the hydraulic fracturing issue and questioned the City's position. Suggested a future work session to receive information and facts before taking a position.

Council Member Marraffa

1. Echoed congratulations to Tony Tomasello on his new appointment mentioned above.
2. Attended the National League of Cities (NLC) conference in Boston, MA. Congratulated Council Member Sesma on his nomination to the Board of Directors. Several issues were discussed including the economy, hydraulic fracturing and reported that the Department of Census proposed conducting a business census.
3. Announced the upcoming activities and events happening throughout Gaithersburg. More information for all events, including hours, admission fees, and ticket purchase, is available at www.gaithersburgmd.gov.

Council Member Spiegel

1. Congratulated City Manager Tomasello and expressed confidence in the stewardship of the City.
2. Reported that a closed session was held at the Kentlands Mansion by the Mayor and City Council on Monday, November 26, 2012, at approximately 9:07 p.m., pursuant to a motion adopted unanimously. The meeting was proposed to be closed pursuant to the State Government Article of the Annotated Code of Maryland, Section 10-508(a)(1)(i) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The topic discussed was the City Manager hiring process. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma, and Spiegel, and City Attorney Board (Left at 9:20 p.m.). Upon conclusion of the discussion, the closed meeting was adjourned at approximately 10:39 p.m.
3. Congratulated Council Member Sesma on his newly appointed position to the NLC Board of Directors. Expressed appreciation for the involvement of colleagues.
4. Participated in a Leadership Career Fair for area high schools and spoke on the role of municipal legislators and the challenges of the position.
5. Participated in a Leadership Career Fair for area high schools and spoke on the role of municipal legislators and the challenges of the position.
6. Attended the Kentlands Downtown Partnership Annual Meeting and received a presentation on market analysis and focusing the City's resources for the Kentlands Downtown area.
7. Attended a tour at the former site of the Consumer Product Safety Commission. The City is in the process of finalizing the transfer from the Federal government to the City of Gaithersburg to pursue long term plans to use the almost 10 acre site for parks and recreation.
8. Attended the Kentlands Tree Lighting Ceremony and Jingle Jubilee events. Kudos to those involved in coordinating the events.
9. Reported that the Gaithersburg-Germantown Chamber of Commerce will host their annual awards

dinner.

10. Wished the public happy holidays!

Council Member Ashman

1. Announced that the Mayor and City Council are seeking members to serve on the Constitution Gardens Ad Hoc Improvement Committee. Functions of the committee will include:
 - Reviewing existing conditions of the site.
 - Identifying commemorative plantings that may be restored or relocated if necessary.
 - Reviewing information gathered by staff through outreach to the original donor base.
 - Consulting with the Gaithersburg Police Department on safety and security issues related to park renovations.
 - Gathering public input on potential improvements or modifications to the site.
 - Compiling a list of prioritized options to increase the utility of the park and its environs for presentation to the Mayor and City Council in the spring of 2013.

Letters of interest should be submitted via mail by 5 p.m. on Friday, December 21, 2012 to: Mayor and City Council, 31 South Summit Avenue, Gaithersburg, Maryland 20877, or sent via email to: cityhall@gaitthersburgmd.gov. For more information, contact Adam Newhart at **301-258-6370 x 103** or e-mail anewhart@gaitthersburgmd.gov.

2. Congratulated City Manager Tomasello on his new role with the City.
3. Echoed congratulation to Council Member Sesma on his new appointment mentioned above.
4. Congratulated Quince Orchard High School on another superb football season and performance at the state championship game. Mentioned that City Attorney Board and Planning Commissioner Winborne were in attendance at Ravens Stadium to support the team.
5. Attended the Jingle Jubilee and Kentlands Downtown Partnership Annual Meeting mentioned earlier in the meeting.
6. Noted that Montgomery County Cable will run a half hour program on the Gaithersburg Book Festival. The program will be available on YouTube.

Mayor Katz

1. Requested the following:

Motion was made by Council Vice President Spiegel, seconded by Council Member Marraffa, to conduct a closed Executive Session immediately following the scheduled regular meeting on Monday, December 3, 2012 at City Hall. The meeting is proposed to be closed pursuant to the State Government Article of the Annotated Code of Maryland, Section 10-508(a)(1)(i) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The topics to be discussed are the duties, goals and expectations of the newly appointed City Manager.

Vote: 4-0

2. Reported that City resident Rebecca Smandrowski will be sworn in to serve her first term as a

member of the Board of Education.

3. Scheduled work session on December 10, 2012 to receive annual committee briefings from the Multicultural Affairs Committee, Police Advisory Committee, Olde Towne Advisory Subcommittee and the Gaithersburg Senior Advisory Committee.
4. Next regular meeting scheduled for December 17, 2012.
5. Echoed congratulations to City Manager Tomasello.

XI. FROM THE CITY MANAGER

1. Gave kudos to Adam Newhart and Public Works staff on the MARC Station landscaping improvements, paths and steps. Council Member Drzyzgula asked staff to contact CSX to address the grade of the new platform to warn those crossing due to the grade change. City Manager Tomasello responded that staff will handle.
2. Referred to the property at 309 South Frederick Avenue. Reported that the property was visited by the Historic District Commission to evaluate. Staff does not anticipate recommendation for historic designation, but will bring a plan for the site at a future date.
3. Mentioned the Jingle Jubilee was a wonderful well attended event.
4. Reported that staff hosted a luncheon for developers on November 15th in Olde Towne to focus and discuss the 315 East Diamond Avenue site. Planning and Code Administration Director Schlichting reported that he is working with Economic Development Director Loneragan and Olde Towne Coordinator Hines to investigate ways to move the project forward and manage the property through the RFP process. Staff sought approval to create an RFP for the project and come back in February 2013. All concurred to move forward with developing an RFP.

XII. ECONOMIC DEVELOPMENT UPDATE

Economic Development Director Loneragan

1. Thanked County Council Member Leventhal for sending a representative for the TIF presentation received earlier in the meeting.
2. Mentioned that staff has reviewed RFPs and selected five finalist for the 355 Corridor Analysis. Staff will come before the Mayor and City Council with the final selection at the December 17th meeting for approval.
3. Attended the grand opening of Red Hue Boutique at 404 Main Street in the Kentlands.

XIII. ORDINANCES, RESOLUTIONS AND REGULATIONS

Resolution of the Mayor and City Council Authorizing the City Manager to Execute a Memorandum of Understanding with Montgomery County Public Schools for Participation in the Cost of Structural Repairs to the Gaithersburg Aquatic Center Building

This resolution authorized the City Manager to negotiate and execute a Memorandum of Understanding with Montgomery County Public Schools (MCPS) for participation in the necessary structural repairs to the Gaithersburg Aquatic Center in the amount of Three Hundred Thousand Dollars (\$300,000); said funds to be expended from the Capital Improvements Budget.

Public Works Director Arnoult presented the above and provided background on the closing of the center and cost to repair columns supporting the roof. In addition to the structural repairs, there are certain repairs needed to the pool. The City negotiated a deal, in principal, with Montgomery County Government whereby they will match the contribution that the City provides to MCPS for structural repairs. The County contribution is strictly related to the pool repairs that will be undertaken by the City and cannot be used for the structural repairs. MCPS has completed the design for the structural repairs and competitively bid the

structural repair project. The cost of for the design and construction, including a \$40,000 contingency, is \$600,000. MCPS is requesting that the City participate in the amount of \$300,000.

Motion was made by Council Member Spiegel, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH MONTGOMERY COUNTY PUBLIC SCHOOLS FOR PARTICIPATION IN THE COST OF STRUCTURAL REPAIRS TO THE GAITHERSBURG AQUATIC CENTER BUILDING (Resolution No. R-88-12), be approved.

Vote: 4-0

XIV. PUBLIC HEARING

A. Ordinance to Amend Chapter 15 of the City Code Entitled "Offenses - Miscellaneous," so as to Repeal Section 15-3, Entitled "Fortunetelling Prohibited; Exception to Remove the Prohibition of Fortunetelling in the Incorporated City Limits"

City Attorney Board presented the above hearing. The proposed ordinance was discussed during a joint work session held on September 24, 2012, repealing Section 15-3 of the City Code, to bring into compliance with recent Maryland court decisions.

There were no speakers from the public.

Motion was made by Council Member Ashman, seconded by, Council Member Spiegel, that the City Council hold their record open on the above until 5 p.m., December 24, 2012.

Vote: 4-0

B. Joint - An Ordinance to Amend Chapter 24 (City Zoning Ordinance), Article I, Entitled, "In General," § 24-1, Entitled, "Definitions," Article III, Entitled, "Regulations Applicable to Particular Zones," Division 11, Entitled, "C-1 Zone, General Commercial," § 24-112, "Uses Permitted as Special Exceptions," Division 12, Entitled, "C-2 Zone, General Commercial," § 24-118, "Uses Permitted as Special Exceptions," Division 14, Entitled, "I-1 Zone, Light Industrial," § 24-136, Entitled, "Uses Permitted by Right," So as to Provide New Standards for Fortune Telling Uses

Planning Director Pruss presented the above joint hearing. The Mayor and City Council and Planning Commission held a joint work session on September 24, 2012 regarding the proposed regulations for the regulation of fortunetellers in the City. Staff received input on the draft ordinance and modified the ordinance in response and received sponsorship of the draft ordinance on November 5, 2012. The proposed draft ordinance defines "fortune telling businesses" and classifies the use as permitted in the I-1 Zone only, and as a Special Exception in the C-1 and C-2 Zones.

There were no speakers from the public.

Motion was made by Commissioner Winborne, seconded by Commissioner Lanier, that the Planning Commission hold their record open until 5 p.m. on Tuesday, December 18, 2012, with anticipated recommendation on Wednesday, January 2, 2013.

Vote: 4-0

Motion was made by Council Member Drzyzgula, seconded by Council Member Spiegel, that the City Council hold their record open on the above until 5 p.m. on Thursday, January 3, 2013, with anticipated policy discussion on Tuesday, January 22, 2013.

Vote: 4-0

XV. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at approximately 9:20 p.m.